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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,553	06/02/2000	Shuji Ono	3562-0102P	5106
7590	06/15/2004		EXAMINER	
Birch Stewart Kolasch and Birch LLP P O Box 747 Falls Church, VA 22040-0747			WU, DOROTHY	
			ART UNIT	PAPER NUMBER
			2615	
			DATE MAILED: 06/15/2004	

9

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/585,553	ONO, SHUJI
	Examiner Dorothy Wu	Art Unit 2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 6-15, 17-19 and 21 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5, 16 and 20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to amended claims 1-5, 16, and 20 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 16, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsugu, U.S. Patent 6,636,635.

Regarding claim 1, Matsugu teaches an image processing apparatus for processing an image obtained by photographing a subject (col. 15, lines 25-28), comprising: an image data unit (image sensing unit **1A** and left camera **501L**) for capturing a first image and a second image of the subject, said second image being captured in a parallactic manner (Figs. 1 and 23); an extractor (image sensing mode extraction unit **B1** and object distance detection unit **505**) for extracting image information relating to conditions of the image from said first image and (col. 15, lines 39-46) and for extracting depth information indicating a distance to a plurality of points on the subject from said second image (col. 44, line 66-col. 45, line 5; Fig. 23); and a condition-

determining unit (template size determination unit 507) for determining a process condition (size of template) of said first image based on said depth information (col. 4, lines 23-26; col. 45, lines 30-35).

Regarding claim 2, Matsugu teaches an image processing unit (similarity evaluation unit 508) processing said image based on said condition (size of template) for processing said image (col. 45, lines 32-35).

Regarding claim 3, Matsugu teaches that the extractor (object distance detection unit 505) extracts said depth information based on the parallactic image obtained by photographing said subject from different viewpoints (col. 44, line 66-col. 45, line 5; Fig. 23).

Regarding claim 4, Matsugu teaches that the invention relates to a method of extracting a target object from an image, which reads on an extractor extracting data of an aimed object (col. 1, lines 7-9). As Matsugu teaches that the object distance determines the size of the template used in the extraction, see above, the extraction of the target image is based on depth information. Matsugu teaches that the type of a template group associated with one specific object is input, which reads on a condition (type of template) for processing said image being based on information including said data of said aimed object (col. 46, line 65-col. 47, line 4).

Regarding claim 5, Matsugu teaches that a target object is extracted from an image sensed by an image sensing apparatus, which reads on the extraction of image information included in an image and the extraction of an aimed object based on image information (col. 1, lines 7-9).

Regarding claim 16, because the apparatus of claim 1 is taught, the method corresponding to the apparatus is also taught.

Regarding claim 20, Matsugu teaches a storage medium that provides a program to the image sensing apparatus (col. 1, lines 13-16). Because the apparatus of claim 1 is taught, the recording medium that stores the program to perform the method of processing is also taught.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dorothy Wu whose telephone number is 703-305-8412. The examiner can normally be reached on Monday-Friday, 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Dorothy W.*  
DW  
June 2, 2004



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